



The Trusted Choice

Michigan Association of Insurance Agents
Representing Independent Agents

May 16, 2013

SB 324
Senate Health Policy Committee Testimony

Introduction

Good Afternoon Chairman Marleau and Committee Members;

My name is Scott Hummel and I am pleased to testify on behalf of the Michigan Association of Insurance Agents (MAIA) and to discuss MAIA's support of most of the concepts embodied in SB 324.

MAIA is a state trade association for Independent Insurance Agencies representing almost 850 member agencies from all across Michigan and consists of over 8000 agents and their staff. Our members are independently operated, family owned small businesses that offer all types of insurance in the personal and commercial lines markets, including auto, home, business, life, and health coverages, as well as retirement and employee-benefit products. As Independent Agents, MAIA members represent not one, but numerous insurance companies, and can therefore provide their clients with a wide choice of coverages and products to best suit their unique needs and in most cases, the independent agent's first duty is to their client.

Michigan Based Oversight of Navigators

The Affordable Care Act (ACA) requires health insurance exchanges to be operational in every state by October 1, 2013, and the law requires every exchange – whether state-based or a federally – facilitated exchange (FFE) – to satisfy certain requirements. One mandatory element is the establishment of a so-called “navigator” program by each exchange, and many states are beginning to consider exactly how these new entities will be overseen and regulated. State have broad authority and discretion to establish and structure these programs as they deem appropriate, and this includes the authority to create a state-level oversight system and regulatory framework for navigators (even with a FFE).

The establishment of navigators and similar entities (In-Person-Assistors; Application Specialists) by the ACA raises a number of important public policy issues for you as state legislators. Many navigators will have little or no insurance expertise but they will soon begin to perform a number of





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significant tasks in Michigan such as educating certain consumers about new health insurance options and tax subsidies. The failure of navigators to perform these duties appropriately, whether as a result of incompetence or misconduct, may have significant adverse effects on small businesses and individual consumers. Decisions regarding health insurance are among the most important that are made by any individual or family, so the ramifications and states are very high.

SB 324 effectively responds to and heads off these potential problems without interfering with the duties and responsibilities that have been assigned to navigators. The bill fills the regulatory void that would otherwise exist and affirms that navigators are subject to Michigan based oversight. MAIA supports many of the concepts within SB 324 because it helps ensure that navigators and similar entities will be properly qualified, that their activities are properly defined, that they are subject to the oversight of state officials and jurisdiction of the state insurance code, and that they are accountable for their actions. In short, this legislation helps protect Michigan consumers from the intentional wrong acts and unintentional mistakes of navigators.

There are many reasons why Michigan policymakers should act quickly to establish jurisdiction over navigators and create an oversight structure for those who operate within the borders of the state. Some are:

- As with any other person who engages in the insurance education and who may facilitate enrollment, navigators should be subject to the jurisdiction and oversight of state insurance regulators. Those who carry out such activities have long been required to obtain some form of license, satisfy various educational requirements (including initial training and continuing education), and comply with applicable state law. Michigan has applied such requirements to those who engage in similar activities for decades, and it is prudent public policy to now establish an appropriate oversight structure for navigators.
- State licensing statutes are the primary mechanism by which regulators can stop unqualified and unscrupulous actors and intervene to protect the public. Without such licensing, there is little practical way for states to effectively supervise the actions of insurance providers and those who interact with the public.
- The failure to establish an oversight structure for navigators will result in a regulatory vacuum that leaves navigators outside the jurisdiction of state officials and the insurance code. Health plans offered with the federal exchange, as well as insurance producers who offer plans to the





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public, will continue to be regulated at the state level, and navigators should be subject to similar oversight.

- Proper scrutiny and oversight of navigators is also essential because navigators will be funded by the exchange themselves and will operate under the cloak of government authority and sponsorship.
- All States – including those where the Department of Health and Human Services (HHS) will operate FFE's – have very broad authority and wide discretion to license and regulate navigators. No provision of the ACA prohibits state officials from mandating the licensing of individuals or entities who seek to operate as navigators, and the federal exchange regulation itself requires navigators and potential recipients of navigator grants to satisfy "any licensing, certification, or other standards" established at the state level. HHS provided additional guidance in December of 2012 affirming that the authority to regulate navigators extends to states where a FFE will operate and noted that states "may impose navigator-specific licensing or certification requirements upon individuals and entities seeking to operate as navigators."
- HHS will establish a fully functional navigator program in conjunction with every FFE by October 1, 2013, so Michigan will need to act quickly if the state hopes to have a regulatory infrastructure for navigators in place by the time the exchange becomes operational.

Again, SB 324 embodies several elements that establishes an appropriate and effective oversight system for navigators, including:

- Oversight and Supervision of Navigators;
- Permissible activities of Navigators;
- Disciplinary Action.

SB 324 is a thoughtfully constructed proposal that addresses a clear regulatory gap and helps ensure that Michigan's citizens are protected from this new category of marketplace actor, and MAIA commends Senator Marleau for his leadership on this issue. We also thank you for your time to comment on this bill and I am available for questions.

